Exhibit 26

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12   UNITED STATES DISTRICT COURT

13   NORTHERN DISTRICT OF CALIFORNIA

14   SAN FRANCISCO DIVISION

15
     ORACLE AMERICA, INC.,   Case No. 3:10-cv-03561 WHA
16
                   Plaintiffs,   **GOOGLE INC.'S DEPOSITION CLIPS OF**
17   **DONALD SMITH PLAYED BY VIDEO**
            v.   **DURING TRIAL**
18
     GOOGLE INC.,   Trial Date: May 9, 2016
19   Dept: Courtroom 8, 19th Fl.
                   Defendant.   Judge: Hon. William Alsup
20

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26   │ UNITED STATES DISTRICT COURT │
                                         │ NORTHERN DISTRICT OF CALIFORNIA│
27   │ **TRIAL EXHIBIT 7788**   │
                                         │   CASE NO. 10-03561 WHA   │
28   │ DATE ENTERED_____ │
                                         │ BY_____│
                                         │   DEPUTY CLERK   │
                                         └─────────────────────────────┘

     GOOGLE INC.'S DEPOSITION CLIPS OF DONALD SMITH PLAYED BY VIDEO DURING TRIAL
                          Case No. 3:10-cv-03561 WHA
1060224

1   Defendant Google Inc. submits the following deposition clips of Donald Smith played by

2   video on May 13, 2016.

3

4   Dated: May 15, 2016   KEKER & VAN NEST LLP

5

6   By: s/ Robert A. Van Nest
                                                         ROBERT A. VAN NEST
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1060224

Oracle v. Google_2

📁 **Smith, Donald (Vol. 01) - 11/20/2015 [2187585]**   **1 CLIP (RUNNING 00:06:57.937)**

🎬 Okay. Good morning, Mr. Smith. ...

D_SMITH_CLIP1   **35 SEGMENTS (RUNNING 00:06:57.937)**

1. PAGE 8:07 TO 8:11 (RUNNING 00:00:06.745)

```
07          Q.   Okay.  Good morning, Mr. Smith.
08          A.   Good morning.
09          Q.   Could you please state your full name for the
10     record?
11          A.   Sure.  It's Donald Owen Smith.
```

2. PAGE 8:12 TO 8:24 (RUNNING 00:00:26.133)

```
12          Q.   Have you ever been deposed before?
13          A.   I have not.
14          Q.   Well, I assume you understand that it's a
15     general question and answer process?
16          A.   I do.
17          Q.   I'll be asking the questions; you'll be
18     answering them.  If you don't understand any of my
19     questions, please just feel free to let me know.  I'm
20     happy to restate it in a way that you can understand.
21          A.   Okay.
22          Q.   If you don't say that, if you don't ask me to
23     clarify, I'll just assume you understood the question.
24          A.   Sure.
```

3. PAGE 9:03 TO 9:08 (RUNNING 00:00:12.816)

```
03          Q.   And you understand that you're here as a
04     30(b)(6) witness; is that correct?
05          A.   I do.
06          Q.   And you understand that that means you're
07     speaking on behalf of Oracle, the company?
08          A.   I do.
```

4. PAGE 22:16 TO 22:17 (RUNNING 00:00:04.445)

```
16          Q.   So do you understand the Java language to
17     include the APIs?
```

5. PAGE 22:19 TO 22:20 (RUNNING 00:00:06.958)

```
19               THE WITNESS:  Yes.  I mean, the APIs are a
20     critical part of the Java language.
```

6. PAGE 22:22 TO 22:23 (RUNNING 00:00:04.229)

```
22          Q.   Would you say that's true for the APIs that
23     are at issue in the case?
```

7. PAGE 22:25 TO 23:02 (RUNNING 00:00:11.984)

```
25               THE WITNESS:  Yes, those APIs are a
00023:01     fundamental part of what makes Java Java -- what makes a
02     developer recognize Java.
```

8. PAGE 23:18 TO 23:19 (RUNNING 00:00:05.616)

```
18          Q.   Do you believe that the Java language and the
19     Java APIs are inseparable?
```

9. PAGE 23:22 TO 24:01 (RUNNING 00:00:18.566)

```
22               THE WITNESS:  Inseparable?  I'm sorry, I'm not
```

page 1

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```
        23   sure I fully understand the context of that.
        24   BY MR. MULLEN:
        25        Q.   Well, in other words, can the two be
  00024:01   separated for purposes of what use is permissible?
```

10. PAGE 24:05 TO 24:08 (RUNNING 00:00:15.171)

```
        05           THE WITNESS:  So again, like, as it relates to
        06   the specification and both the languages as it's
        07   defined, no, they're not separable.  It's all defined
        08   together under the same specification.
```

11. PAGE 30:06 TO 30:07 (RUNNING 00:00:13.007)

```
        06        Q.   Is one of the goals of your job to encourage
        07   developers to use the Java programming language?
```

12. PAGE 30:09 TO 30:09 (RUNNING 00:00:03.940)

```
        09           THE WITNESS:  Yes.
```

13. PAGE 30:21 TO 30:23 (RUNNING 00:00:08.795)

```
        21           Is it part of Oracle's overall business
        22   strategy, as it relates to Java, to encourage people to
        23   write in the Java programming language?
```

14. PAGE 30:25 TO 31:04 (RUNNING 00:00:17.956)

```
        25           THE WITNESS:  Yes, we -- again, a lot of our
  00031:01   products are based on Java and are based on companies
        02   building Java applications.  So the more that the
        03   platform is available, the better it is for us as a
        04   business.
```

15. PAGE 32:09 TO 32:10 (RUNNING 00:00:06.774)

```
        09        Q.   Do you have an understanding of how many Java
        10   developers there are in the world today, roughly?
```

16. PAGE 32:12 TO 32:18 (RUNNING 00:00:24.952)

```
        12           THE WITNESS:  Yes.  So the approved number
        13   that we use is 10 million plus.  There's often press and
        14   analysts that talk about it in terms of tens of
        15   millions.
        16   BY MR. MULLEN:
        17        Q.   Do you have an understanding of whether that
        18   number of developers has increased over time?
```

17. PAGE 32:20 TO 32:23 (RUNNING 00:00:04.983)

```
        20           THE WITNESS:  It has been increasing over
        21   time.
        22   BY MR. MULLEN:
        23        Q.   Has it increased since 2011?
```

18. PAGE 32:25 TO 33:01 (RUNNING 00:00:05.117)

```
        25           THE WITNESS:  I would -- yes, it would be fair
  00033:01   to say it's increased since 2011.
```

19. PAGE 277:15 TO 277:16 (RUNNING 00:00:04.616)

```
        15        Q.   Do you expect Java SE revenue to increase
        16   going forward?
```

20. PAGE 277:19 TO 277:24 (RUNNING 00:00:15.497)

```
        19           THE WITNESS:  So when you say "Java SE
        20   revenue," it depends on what you mean, right, because
        21   there are a number of ways we generate revenue from Java
        22   SE.  Some are growing; some are not.
```

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```
        23   BY MR. MULLEN:
        24        Q.   How is the business doing overall?
```

21. PAGE 278:02 TO 278:07 (RUNNING 00:00:30.542)

```
        02            THE WITNESS:  Right.  So Java SE -- like Java
        03   SE Advanced is growing well.  Support revenue is growing
        04   well.  So that the Java SE business -- I mean, I would
        05   have to have the actual accounting numbers here, but
        06   it's like $150 million for what I personally carve out
        07   as what my team is responsible for generating.
```

22. PAGE 288:14 TO 288:24 (RUNNING 00:00:29.450)

```
        14        Q.   Mr. Smith, do you recall that you testified
        15   earlier today about the relationship between the Java
        16   language and the Java API?
        17        A.   Yes.
        18        Q.   And do you recall that you said that the APIs
        19   are a critical part of the Java language?
        20        A.   Yes.
        21        Q.   Do you believe that statement was accurate?
        22        A.   In the context of the specification, that's
        23   what I was referring to, but no, I don't believe it was
        24   accurate in isolation.
```

23. PAGE 288:25 TO 289:05 (RUNNING 00:00:24.597)

```
        25        Q.   Did you speak with Mark Reinhold to get a
  00289:01   correct understanding of the relationship between the
        02   Java language and the Java API?
        03        A.   Yes.  I've spoken with Mark Reinhold.  He's
        04   the expert in how the specification is created and how
        05   everything is created and interconnects.
```

24. PAGE 290:14 TO 290:16 (RUNNING 00:00:08.431)

```
        14        Q.   And are there others at Oracle who are more
        15   knowledgeable about the technical details of the Java
        16   language or the Java API than you?
```

25. PAGE 290:18 TO 290:19 (RUNNING 00:00:05.895)

```
        18            THE WITNESS:  Well, so Mark Reinhold would be
        19   particular expert in this topic.
```

26. PAGE 291:02 TO 291:03 (RUNNING 00:00:03.472)

```
        02        Q.   And is the Java language within your job
        03   responsibilities?
```

27. PAGE 291:05 TO 291:05 (RUNNING 00:00:03.141)

```
        05            THE WITNESS:  It would be under Mark.
```

28. PAGE 291:08 TO 291:10 (RUNNING 00:00:05.110)

```
        08            At the time you answered the questions this
        09   morning, what did you understand the context of those
        10   questions to be?
```

29. PAGE 291:12 TO 291:18 (RUNNING 00:00:32.165)

```
        12            THE WITNESS:  So the context that I was
        13   working on was talking about within the specification
        14   itself, like the specification in its entirety.
        15   BY MS. LEWIS-GRUSS:
        16        Q.   So was it -- so now do you understand the
        17   context -- do you understand that you were asked a
        18   different question this morning?
```

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30. PAGE 291:21 TO 291:24 (RUNNING 00:00:16.696)

```
21              THE WITNESS:  Yeah, so this morning I was
22    concerned that I misunderstood the question, and that's
23    why I asked if it would be okay to talk to Mark Reinhold
24    to further my knowledge in this area, in this topic.
```

31. PAGE 292:02 TO 292:04 (RUNNING 00:00:08.552)

```
02        Q.   So if I asked you whether or not the Java API
03    and the Java language were inseparable, what would your
04    answer be?
```

32. PAGE 292:09 TO 292:11 (RUNNING 00:00:10.640)

```
09              THE WITNESS:  Yeah, so they are separate
10    documents under the same specification, and they are
11    separate.
```

33. PAGE 293:09 TO 293:11 (RUNNING 00:00:08.523)

```
09        Q.   As you sit here today, do you have personal
10    knowledge of the distinction between the Java language
11    and the Java API?
```

34. PAGE 293:13 TO 293:14 (RUNNING 00:00:04.339)

```
13              THE WITNESS:  I'm sorry, I'm just not sure I
14    understand the question.
```

35. PAGE 295:22 TO 295:24 (RUNNING 00:00:08.084)

```
22        Q.   And when I asked you those questions this
23    morning, were you confused at that time?
24        A.   I was confused, yes.
```

TOTAL: 1 CLIP FROM 1 DEPOSITION (RUNNING 00:06:57.937)

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Depo Clip of Smith Played During Trial

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
TRIAL EXHIBIT 7788
CASE NO. 10-03561 WHA
DATE ENTERED_____
BY_____
DEPUTY CLERK